

E-filed 6/25/2007

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DOUGLAS B. KELLEY,

Plaintiff,

v.

RAMBUS, INC., et al.,

Defendants.

Case Number C 07-02455 JF

ORDER¹ GRANTING UNOPPOSED
MOTION TO CONSOLIDATE

Plaintiff Douglas B. Kelley ("Plaintiff") seeks to consolidate Case No. 05-02455 JF ("*Douglas Kelley*") with related Case No. 07-1238 JF (HRL) ("*James Kelley*"). Plaintiff asserts that the cases should be consolidated because they involve substantially the same parties, transactions, or events and as such contain similar arguments and charges against the same defendants. Plaintiff states that it has contacted James M. Kelley and Miki W. Larsson, Plaintiffs in *James Kelley*, and that they are in agreement to consolidate the cases. Given the substantial similarity of the complaints and the large number of defendants named in both cases, Plaintiff argues that consolidation of the two cases will eliminate duplication of efforts by Defendants'

¹ This disposition is not designated for publication and may not be cited.

1 attorneys on motions to dismiss, answers, and discovery. Plaintiff argues it will also eliminate
2 duplicate hearings on essentially the same issues, as well as duplication of trial proceedings for
3 the two related cases.

4 Defendants do not oppose consolidation, but they do raise two issues related to the instant
5 motion. First, Defendants note that Plaintiffs in both actions are acting *pro se*. Defendants
6 express concern that one plaintiff will end up acting on behalf of another plaintiff and that
7 consolidation creates a greater risk of unauthorized practice of law in these matters. In addition,
8 Defendants request that the Court not grant leave to Plaintiffs to file a consolidated complaint
9 until after the disposition of their motions to dismiss the Third Amended Complaint in *James*
10 *Kelley* and any motions to dismiss the First Amended Complaint be filed in *Douglas Kelley*,
11 assuming that the Court grants such motions with leave to amend. The hearing on the motion to
12 dismiss *James Kelley* currently is set for September 7, 2007. Defendants have indicated they
13 intend to file a motion to dismiss *Douglas Kelley* in the near future.

14 Having considered the papers filed by the parties the Court GRANTS Plaintiff's motion
15 for consolidation. The Court notes that the motion is unopposed, and the Court finds that
16 consolidations will promote judicial economy. The consolidated case hereinafter shall be
17 referenced by the case number currently assigned to the action brought by Plaintiffs James
18 Kelley, et al., C 07-1238 JF (HRL). Additionally, because Defendants have indicated they are
19 prepared to file a motion to dismiss in *Douglas Kelley* in the near future, the Court determines
20 that judicial economy will be better served by hearing the motions to dismiss in one proceeding
21 rather than two as has been requested by the Defendants. As such, the Court sets the following
22 revised schedule for the consolidated actions:

- 23 1. Plaintiffs shall file their consolidated complaint on or before July 25, 2007;
- 24 2. Defendants shall answer or otherwise plead on or before August 10, 2007;
- 25 3. Plaintiffs shall have until August 24, 2007 to file any opposition to a motion to
26 dismiss; and
- 27 4. Defendants shall have until August 31, 2007 to file replies to Plaintiffs'
28 opposition.

1 The hearing date of September 7, 2007 on the motion to dismiss in the *James Kelley* case shall
2 serve as the hearing date for all motions to dismiss in the consolidated actions.

3
4 IT IS SO ORDERED.

5
6 DATED: June 25, 2007.

7
8 
9 JEREMY FOGEL
United States District Judge

1 This Order has been served upon the following persons:

2 Darryl P. Rains drains@mofo.com, dgillis@mofo.com

3 Ignacio E. Salceda isalceda@wsgr.com, rlustan@wsgr.com

4 Stephanie Laura Zeller szeller@mofo.com, mbarakah@mofo.com

5 Notice will be delivered by other means to:

6 James M Kelley
14390 Douglass Lane
7 Saratoga, CA 95070

8 Miki W. Larsson
14390 Douglass Lane
9 Saratoga, CA 95070

10 Douglas B. Kelley
11 1887 Saint Andrews Place
San Jose, CA 95132